

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WESTFIELD EAST MAIN STREET, LLC,))
Plaintiff))
v.) C.A. NO. 04-30170-MAP)
))
C. DAVID TRADER, ET AL,))
Defendants))

MEMORANDUM AND ORDER REGARDING
MOTION FOR RECONSIDERATION OF
DEFENDANTS' MOTIONS TO DISMISS
(Docket No. 36)

November 30, 2005

PONSOR, U.S.D.J.

Counsel for all parties appeared for argument on November 29, 2005 regarding Defendants' Motion for Reconsideration. The motion is hereby DENIED. Assuming that Mass. Gen. Laws ch. 231, § 59(H) may be asserted in federal court (a difficult issue), Plaintiffs have made an adequate showing, in the context of a motion to dismiss, that the Defendants' "exercise of [their] right to petition was devoid of any reasonable factual support or any arguable basis in law."

In accordance with the representations of the parties, all discovery will close on February 28, 2006. Counsel will appear again before this court for final pretrial conference on March 20, 2006 at 2:30 p.m. At least five days prior to the conference counsel will file final pretrial memoranda in

accordance with the attached order. Please note: failure to file a final pretrial memo as ordered may result in default or dismissal.

It is So Ordered.

/s/ Michael A. Ponsor

MICHAEL A. PONSOR

U. S. District Judge